

### REMARKS-General

The amended independent claims 1 and 43 incorporates all structural limitations of the original claims 1 and 43 and include further limitations previously brought forth in the disclosure. No new matter has been included. All claims 1-53 are submitted to be of sufficient clarity and detail to enable a person of average skill in the art to make and use the instant invention, so as to be pursuant to 35 USC 112.

#### **Regarding to Rejection of Claims 1, 3, 5, 9, 15, 17, 21, 23, and 43-45 under 35USC102**

The Examiner rejected claims 1, 3, 5, 9, 15, 17, 21, 23, and 43-45 as being unpatentable by Albert et al. (US 6,264,614).

However, the Albert patent and the instant invention are **not the same invention** according to the fact that the independent claim of the Albert patent does not read upon the instant invention and the independent claim 1 or 43 of the instant invention does not read upon the Albert patent too. Apparently, the instant invention, which discloses a distance-treatment through Public Network, should not be the same invention as the Albert patent which discloses a method and hand-held apparatus for patient monitoring.

Accordingly, Albert '614 fails to anticipate the distinctive features of the instant invention as follows:

(a) In claims 1 and 43, "a method and system of providing **distance-treatment**" is claimed for patient treatment, wherein Albert '614 merely teaches a method and system for generating and transferring medical data for patient monitoring without any mention of any treatment for the patient.

(b) In claims 1 and 43, "a **treatment instrument**" is claimed to connect with an information connection system of the registered user, wherein Albert '614 merely teaches a sensor to sense a function or condition of the user's body. In more particularly, Albert '614 teaches the sensor includes a heat monitor that provides an audible output signal in response to the sensed biological function or condition. The

applicant respectfully submits that the treatment instrument is an instrument for patient treatment, such as an electrical acupuncture device, but not the monitoring device as taught by Albert '614.

(c) In claims 1 and 43, "the treatment instrument of information connection system is communicating with a service provider through the **Internet**" is claimed for transmitting data through the Internet, wherein Albert '614 merely teaches the heart monitor of the sensor is connected to a remote location through Internet.

(d) In claims 1 and 43, "a **treatment request** is received from the registered user through **Internet**" is claimed for requesting a treatment, wherein Albert '614 merely discloses the audible signal as a monitoring signal is sent out without any mention of any request for treatment being sent. The applicant respectfully submits that the treatment request is a query sent by the user but is not a signal generated by any sensor. However, the audible signal of Albert '614 is an analog signal generated by the sensor in responsive to the heart condition of the patient. In other words, the treatment request of the instant invention is totally different from the audible signal of Albert '614.

(e) In claims 1 and 43, "a **treatment information data package** is selected to the registered user" is claimed, wherein Albert '614, in column 4, lines 5-6, merely teaches, in column 4, lines 5-6, an acoustical signal is generated in response to the biological function or condition of the individual without any mention of any selection of the treatment information based on the treatment request and a health information profile of the user. The applicant respectfully submits that the treatment information data package is information for patient treatment but not the signal feedback of the monitoring signal. In fact, the method and system of Albert '614 does not provide any treatment for the patient since Albert '614 merely provides a method and system to generate and transfer medical data for patient monitoring. No treatment for the patient is shown and described in Albert '614.

(f) In claims 1 and 43, "digital **treatment signals** are sent to the user through Internet" is claimed to control the treatment operated by the treatment instrument, wherein Albert '614 merely teaches, in column 2, lines 16-36, the monitoring signal (audible signal) is generated by the sensor and is sent by the computer such that the system of Albert '614 can provide information about the health

condition. Albert '614 does not anticipate or teach any treatment signals of the treatment information data package is used to control the treatment operated by the treatment instrument. As it is mentioned above, the method of Albert '614 is used for patient monitoring because the monitoring ECG signal is sent to the doctor for diagnose. However, the instant invention provides a method for patient treatment that the treatment signal is sent to the user to control the treatment operated by the treatment instrument. It is apparent that Albert '614 fails to teach and anticipate the same recitation and limitation in the amended claims 1-53 of the instant invention of sending out the **treatment** request and receiving the **treatment** signal through Internet to control the treatment of the user. In addition, NO diagnose step is included in claims 1 and 43 of the instant invention.

(g) The claiming elements of a process claim are the acts in the steps included, Albert '614 fails to anticipate the elements of (a) providing.... (b) verifying ... (c) receiving ... (d) selecting ... and (e) sending ... as claimed in the claim 1 as a whole. Albert '614 merely suggests the monitoring signal is sent from the patient's hand-held computer through telephone without teaching any detail technology of how to receive the treatment signal for controlling the treatment. Albert '614 provides no substantial steps of how to do it. Moreover, a mere description of "sending out the monitoring signal" does not equivalent to the "treatment request and treatment signal" as claimed in the instant invention.

(h) Albert '614 fails to anticipate and teach "the treatment information database includes a plurality of treatment information with respect to different kinds of classified health problem and the health information database includes health information profiles established for the registered users respectively" as claimed in claims 3 to 4, Albert '614 merely teaches, in column 9, lines 34-40, a database of potential recipients of the medical data is stored and is accessible by the patient such that the patient can identify from the potential recipients at least one selected recipient to receive the medical data for that patient. As it is mentioned above, the database of potential recipients of the medical data, which is the monitoring signal of an ECG (electrocardiogram) signal, is not the same as the treatment information of the instant invention including different kinds of classified health problem and the health information database for patient treatment.

(i) Albert '614 does not teach “any specific user ID and a specific password registered by the user, and specific passcode assigned to the user” as claimed in claims 5 to 6, wherein Albert '614 merely teaches a program loaded to the hand-held computer for the patient to access by name and password.

(j) Albert '614 also fails to anticipate a step of **registering the treatment instrument** in the service provider so as to make a corresponding record in the health information profile of the respective registered user as claimed in claims 9 to 10, wherein Albert '614 merely teaches the ECG monitoring device (hand-held computer) connecting to the remote location by Internet without any mention of any treatment instrument linking to the service provider.

(k) Albert '614 does not teach “the registered user is verified by the user ID, the password, and the passcode of the registered user” as claimed in claims 15 to 16, wherein Albert '614 merely teaches the patient runs the pre-loaded program in the hand-held computer.

(l) Albert '614 fails to anticipate the steps of (b-1) to (b-4) through Internet for accessing as claimed in claims 17 to 18. More importantly, Albert '614 does not suggest the registered user is allowed to **access and amend** the health information profile thereof, informing the current health condition of the registered user based on the health information profile of the registered user, providing list of health problems and diseases of the registered user, and placing the treatment request. Albert '614 does not teach any web page allowing the patient to access and amend the health information profile thereof.

(m) Albert '614 does not teach the steps of enabling the registered user to select the particular health problem and disease to be treated ..., enabling the registered user to select the specific recommended biological treatment..., calling the personal general information and personal health information..., selecting the specific treatment information data package..., and sending the treatment information data package to the information connection system... as claimed in claims 21 to 24. Albert '614 merely teaches the user is able to select and download the medical data acquisition and transmission program without teaching the patient being allowed to select any health problem and disease to be treated since the method and system of Albert '614 is

used for patient monitoring. In other words, Albert '614 merely teaches the user is able to download the medical data of the monitoring signal but not to select any health problem and disease to be treated.

(n) Albert '614 does not teach any **Web Server** for data transmission of the treatment request and treatment signal through Internet as claimed in claim 44, wherein Albert '614 merely teaches the medical data of the monitoring signal is transmitted through Internet. In other words, there is no Web Server for patient treatment in Albert '614's system.

(o) In claim 45, "the computer functions as the treatment instrument through a monitor and speakers of the computer" is claimed for patient treatment, wherein Albert '614 merely teaches the hand-held computer including microphone and speaker as a monitoring device.

Accordingly, Albert '614 fails to anticipate the distinctive features (a) to (o). Applicant believes that the rejection of claims 1, 3, 5, 9, 15, 17, 21, 23, and 43-45 are improper and should be withdrawn.

### **Response to Rejection of Claims 2, 4, 6-8, 10-14, 16, 18-20, 22, 24-42, and 46-53 under 35USC103**

The Examiner rejected claims 2, 4, 6-8, 10-14, 16, 18-20, 22, 24-42, and 46-53 over Albert '614 in view of Albert (US 5,735,285), Chan et al (2001/0039503 A1), Khaled et al (US 5,416,804), Swing (US 6,522,929), and/or Bologna (2003/0023129). Pursuant to 35 U.S.C. 103:

"(a) A patent may not be obtained though the invention is **not identically** disclosed or described as set forth in **section 102 of this title**, if the **differences** between the subject matter sought to be patented and the prior art are such that the **subject matter as a whole would have been obvious** at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made."

In view of 35 U.S.C. 103(a), it is apparent that to be qualified as a prior art under 35USC103(a), the prior art must be cited under 35USC102(a)-(g) but the disclosure of the prior art and the invention are not identical and there are one or more differences between the subject matter sought to be patented and the prior art. In addition, such differences between the subject matter sought to be patented **as a whole** and the prior art are obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

In other words, the differences between the subject matter sought to be patent as a whole of the instant invention and Albert '614 which is qualified as prior art of the instant invention under 35USC102(e) are obvious in view of Albert '285, Chan, Khaled, Swing, and/or Bologna at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

The applicant respectfully submits that in order to determine whether the differences between the subject matters sought to be patent as a whole of the instant invention and the primary prior art, Albert '614, are obvious in view of the supplemental cited arts, Albert '285, Chan, Khaled, Swing, and/or Bologna, we have to identify all the differences between the claims of the instant inventions and Albert '614.

However, as recited above, Albert '614 merely discloses a method and system for generating and transmitting medical data to monitor the health condition of the patient, wherein the medical data is generated by the sensor which provides an audible output signal in response to the sensed biological function or condition and is sent to the remote location for diagnose such that the health condition of the patient can be monitored in real-time manner. In other words, Albert '614 fails to teach and suggest any treatment request sent from the user and any treatment signal sent to the user to control the treatment operated by the treatment instrument on the registered user. Therefore, the method and system for patient monitoring taught by Albert '614 is totally different from the method and system for patient treatment of the instant invention.

Therefore, the difference between Albert '614 and the instant invention as claimed in claims 1 to 53 is not limited to the disclosure of "data transmission", but includes the above distinctive features (a) to (o). In addition, regarding to claims 1 to 53, the instant invention further contains the following distinctive features:

(p) Albert '614 does not teach any "digital **treatment signals** is decoded into analog treatment signal" as claimed in claim 2 in addition to what is claimed in claim 1 as a whole. Albert '614 merely teaches the monitoring signal is converted without any treatment signal is sent to the user.

(q) Albert '614 fails to teach and suggest "the personal health information includes **personal physical information and a recent body test record** and health information profile comprises a **diagnosis file** recording a personal diagnosis information" as claimed in claims 7 and 8 in addition to what is claimed in claim 1 as a whole.

(r) Albert '614 fails to teach "the information database includes a plurality of treatment information with respect to different kinds of classified health problem and diseases, wherein the treatment information is stored as the treatment information data package" as claimed in claims 11 and 12 in addition to what is claimed in claim 1 as a whole.

(s) Albert '614 fails to teach "a treatment page includes a list of the health problems and diseases that the registered user suffers, treatment opinions from doctors, recommendation of beneficial foods and activities for each of the listed health problems and diseases of the registered user, recommended biological treatments with respect to the listed health problems and diseases that the registered user suffers respectively, and information of suggested treatment instrument for executing each recommended biological treatment" as claimed in claims 19 to 20 in addition to what is claimed in claim 1 as a whole. Albert '614 does not provide any treatment page and any treatment opinions for the patient.

(t) Albert '614 does not suggest any step of "feeding back responsive health information for controlling and adjusting properties of the digital treatment signals of the treatment information data package to be sent from the service provider to the

information connection system of the registered user” as claimed in claims 25 to 30 in addition to what is claimed in claim 1 as a whole.

(u) Albert '614 fails to teach the steps (f-1) to (f-6) as claimed in claims 31 to 34 in addition to what is claimed in claim 1 as a whole. More importantly, Albert '614 does not teach the treatment signal is evaluated and adjusted to become the modified treatment signal for **patient treatment**.

(v) Albert '614 does not teach “the current health information detected are analog signals which are converted into digital signals” as claimed in claims 35 to 38 in addition to what is claimed in claim 1 as a whole.

(w) Albert '614 does not teach the **treatment** signal is controlled and adjusted to be sent to the user as claimed in claims 39 to 42 in addition to what is claimed in claim 1 as a whole. No treatment is included in the monitoring method of Albert '614 and No treatment signal is adjusted through the monitoring method of Albert '614. Only the monitoring signal is detected by the heart monitor and is sent to the remote location for diagnoses as taught by Albert '614.

(x) Albert '614 does not teach any decoder converting the treatment signal to analog signal to control the treatment of the treatment instrument as claimed in claims 46 to 47 in addition to what is claimed in claim 43. Albert '614 merely teaches the monitoring signal converted to analogy form.

(y) Albert '614 fails to teach any internal decoder installed in the information connection system and provides a data outlet port to be connected to the information input connection of the treatment instrument as claimed in claim 48 in addition to what is claimed in claim 43.

(z) Albert '614 fails to teach any external decoder physically connected between the information connection system and the treatment instrument as claimed in claim 49 in addition to what is claimed in claim 43.

(aa) Albert '614 does not teach the treatment instrument is an electrical acupuncture device for operating electrical acupuncture treatment as claimed in claims



50 to 51 in addition to what is claimed in claim 43. Albert '614 merely teaches the sensor is a heart monitor for patient monitoring without any treatment for the patient.

(bb) Albert '614 does not teach the treatment instrument is an electromagnetic wave generator for producing electromagnetic waves as claimed in claims 52 to 53 in addition to what is claimed in claim 43. Albert '614 merely teaches the sensor is a heart monitor for patient monitoring without any treatment for the patient.

Whether the claims 1 to 53 as amended of the instant invention are obvious depends on whether the above differences (a) to (bb) between the instant invention and Albert '614 are obvious in view of Albert '285, Chan, Khaled, Swing, and/or Bologna at the time of the invention was made.

Furthermore, the applicant respectfully submits that when applying 35 USC 103, the following tenets of patent law must be adhered to:

- (a) The claimed invention must be considered as a whole;
- (b) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination;
- (c) The references must be viewed without the benefit of hindsight vision afforded by the claimed invention; and
- (d) Reasonable expectation of success is the standard with which obviousness is determined.

Also, "The mere fact that a reference could be modified to produce the patented invention would not make the modification obvious unless it is suggested by the prior art." Libbey-Owens-Ford v. BOC Group, 4 USPQ 2d 1097, 1103 (DCNJ 1987).

Albert '285 merely teaches the analogy to digital converter converting the ECG monitoring signal without any mention of how to convert the signal from the treatment instrument of the instant invention. The monitoring device of Albert '285 is a Hear Card to detect the ECG signal from the patient. However, the treatment instrument of the instant invention is used for patient treatment. Throughout the specifications of Albert '614 and Albert '285 (which are the same inventor), they both teach the method and

system for patient monitoring. However, the instant invention is to provide a method and system for patient treatment such that the treatment instrument, the treatment request, and the treatment signal are correspondingly linked to control the treatment of the patient. Therefore, neither Albert '614 nor Albert '285 suggests a method and system for patient treatment containing the above distinctive features (a) to (bb) as claimed in the instant invention as well as any combination or possibility of providing a treatment instrument for treating the user and sending the treatment signal in responsive to the treatment request from the user to control the treatment of the user.

Chan merely teaches a method and system for managing chronic disease and wellness online, wherein the system collects personal health information and medical record data and analyzes the information without any suggestion of how such personal health information and medical record data be possibly equipped in the distance-treatment system through Internet. In other words, by modifying Albert '614 with Chan, the monitoring system of Albert '614 merely stores the personal health information in responsive to the monitoring signal detected by the heart monitor without any treatment request and/or treatment signal to control the treatment of the patient.

Khaled merely teaches a digital signal decoder using concatenated codes without any suggestion of how such decoder incorporating with the treatment instrument such that when the user sends out the treatment request, the treatment signal is correspondingly sent to the user to control a treatment operated by the treatment instrument on the user.

Swing merely teaches a method for healing an injury of a patient using an electrical stimulator and acupuncture needles without any suggestion of how such acupuncture needles using as the treatment instrument to control the treatment of the user in responsive to the treatment request and treatment signal.

Bologna, on the other hand, merely teaches a generator of electromagnetic waves for medical use for personal physical and psychological wellbeing without any suggestion of how such generator using as the treatment instrument to control the treatment of the user in responsive to the treatment request and treatment signal.

In other words, a mere recitation of acupuncture needles and/or electromagnetic wave generator in Swing and/or Bologna does not suggest any distance-treatment

including the treatment instrument, the treatment request, and the treatment signal to incorporate with the method and system for patient monitoring in Albert '614.

“To prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the examiner to show a motivation to combine the references that create the case of obviousness. In other words, the examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited art references for combination in the manner claimed... [T]he suggestion to combine requirement stands as a critical safeguard against hindsight analysis and rote application of the legal test for obviousness...” *In re Gorman*, 933 F.2d 982, 986, 18 USPQ 2d 1885, 1888 (Fed. Cir. 1991).

Accordingly, the applicant believes that neither Albert '614, Albert '285, Chan, Khaled, Swing, nor Bologna, separately or in combination, suggest or make any mention whatsoever of the difference subject features (a) to (bb) as claimed in the amended claims 1 to 53 of the instant invention.

Applicant believes that for all of the foregoing reasons, all of the claims are in condition for allowance and such action is respectfully requested.

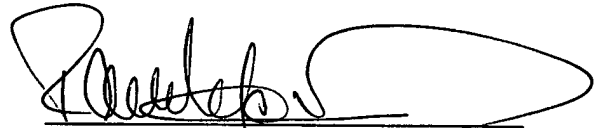
#### **The Cited but Non-Applied References**

The cited but not relied upon references have been studied and are greatly appreciated, but are deemed to be less relevant than the relied upon references.

In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration and withdrawal of the objection are requested. Allowance of claims 1-53 at an early date is solicited.

Should the Examiner believe that anything further is needed in order to place the application in condition for allowance, he is requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

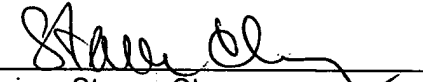


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